

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:10-CV-249-F

UNITED STATES OF AMERICA,)
for the use of BRESLOW CONSTR.,LLC)
Plaintiff,)

WESTERN SURETY COMPANY,)
Intervenor Plaintiff,)

v.)

ORDER

CADDELL CONSTR. CO., INC.; W.G.)
YATES & SONS CONSTR. CO.;)
CADDELL YATES JOINT VENTURE;)
TRAVELERS CASUALTY AND)
SURETY CO. OF AMERICA;)
FIDELITY AND DEPOSIT CO. OF)
MARYLAND; and ZURICH AMERICAN)
INSURANCE CO.,)
Defendants.)

Pursuant to the parties' "Stipulations as to Intervention, Stay of Proceedings, and Arbitration" [DE-50], and for the reasons set forth therein, it is ORDERED that Western Surety Company ("Western Surety") is allowed to INTERVENE as a plaintiff in this action, with the following stipulated understanding among all parties:

a) the May 25, 2011, Order [DE-40] will remain in force, with all issues between Breslow and the defendants pertaining to this civil action to be resolved through arbitration in Montgomery, Alabama; and

b) Western Surety will participate in the arbitration and be bound by the award;

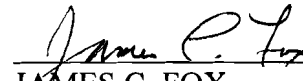
c) Travelers Casualty and Surety Company of America ("Travelers"), Fidelity and Deposit Company of Maryland ("F&D"), and Zurich American Insurance Company ("Zurich") will participate in the arbitration and be bound by the award; and

d) claims against Western Surety, Travelers, F&D, and Zurich for interest, attorney's fees, bad faith, lack of good faith and fair dealing, or other such issues, or any defenses unique to sureties shall not be the subject of the arbitration.

Western's Motion to Intervene [DE-47] is DENIED as moot. The order granting stay [DE-40] remains in full force and effect, as does the direction to submit status reports on the arbitration proceedings every 90 days.

SO ORDERED.

This, the 30th day of November, 2011.



JAMES C. FOX
Senior United States District Judge